IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE V.V.S.RAO

WRIT PETITION NO.582 OF 2004

Between:

Mubasheer Masood,

S/o.Masood Quadri, R/o.11-5-407/1

Red Hills, Hyderabad.

…PETITIONER

And

1. The Secretary, Ministry of External Affairs,

Government of India, New Delhi.

2. The Regional Passport Officer,

Secunderabad, Andhra Pradesh

…RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or orders, or direction more particularly one in the nature of Writ of Mandamus by directing the respondents to accept the petitioner application on payment of required fee and to issue fresh passport to the petitioner duly incorporating the date of birth as per Birth Certificate issued by Municipal Corporation of Hyderabad, as 1.1.1957 instead of 1.1.1955, to enable the petitioner

to visit U.S.A.

Counsel for the Petitioner: MR. AMEER MUJTABA AHMED

Counsel for the Respondents: MR. A. RAJASEKHAR REDDY

(S.C. FOR CENTRAL GOVT.)

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.582 OF 2004

ORDER:

The petitioner obtained passport on 25.8.2001 in which his date of birth is shown as 1.1.1955. The petitioner contends that his actual date of birth is 1.1.1957. Therefore, he obtained birth certificate issued under Section 12 of the Registration of Births and Deaths Act, 1969 (for short, the Act) and approached the second respondent for correction of date of birth. The petitioner alleges that second respondent refused to correct date of birth and therefore he filed the Writ Petition seeking a direction to

second respondent to issue fresh passport duly incorporating date of birth as 1.1.1957.

Though interlocutory application is listed, with the consent of the learned counsel for the petitioner and the learned Standing Counsel for the Central Government, the Writ Petition itself is heard finally and is being disposed of.

In ***Ali Imran v. Regional Passport Officer, Secunderabad***, I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under.

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil court.

As per provisions of Section 13 of the Act, every birth or death has to be registered within thirty days of its occurrence, or within one year with the written permission of the prescribed authority on payment of prescribed fee. If the birth or death is not registered within one year, as mentioned herein, the birth or death can only be

registered by competent authority only on an order made by Magistrate of First Class after verifying the correctness of birth or death. In this case, though the petitioner has obtained birth certificate from Municipal Corporation of Hyderabad (MCH), the same is not supported by any order made under Section 13(3) of the Act. Therefore, the petitioner has to approach the Executive Magistrate for appropriate orders, based on which MCH can register the birth only thereafter. On the basis of certificate issued by the MCH, in which the petitioner's date of birth was registered only on 31.10.2003, no direction can be issued to the respondents. The petitioner is given liberty to approach the Executive Magistrate for appropriate orders in the matter.

The Writ Petition, with the above observations, is dismissed. No costs.

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(V.V.S.RAO, J)

2.9.2004

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To

1. The Secretary, Ministry of External Affairs,

Government of India, New Delhi.

2. The Regional Passport Officer,

Clock Tower, Secunderabad

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